

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT  
Thursday, March 22, 2018  
9:00 a.m.  
Room 105 Courthouse Annex  
Cascade County Commissioners Chambers**

**Variance request**

**Subject Property Information**

Name & Address of Applicant	Parsons, Clayton and Jana 300 24 <sup>th</sup> St NW Great Falls, MT 59404
Name & Address of Owner	Parsons, Amy 300 24 <sup>th</sup> St NW Great Falls, MT 59404
Geo Code:	02-3015-04-4-06-08-0000
Parcel Number:	0002112600
Existing Zoning:	Urban Residential (UR) District
Legal Description:	Section 04, Township 20 N, Range 03 E
Requested Action and Purpose:	Variance request to reduce side yard setback
Total Land Area:	0.344 Acres
Adjacent Land Uses & Zoning:	North: Urban Residential South: Urban Residential West: Urban Residential East: Urban Residential
Current Land Use:	Residential
Applicable Regulations:	Sections 7.1.0.3 and 9.5.4 of the Cascade County Zoning Regulations

**Special Information**

1. Section 7.1.0.3 (1) of the Cascade County Zoning Regulations provides the following required setbacks for side yards in Residential Districts:  
  
*(1) Side Yard  
The side yard width shall not be less than six (6) feet.*
2. The following definition is taken from the Cascade County Zoning Regulations:

## VARIANCE

*A variance is a relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. As used in these regulations, a variance is authorized only for height, area, and size of structure, size of yards and open spaces, signage, landscaping, or as otherwise specifically provided for in these regulations. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.*

3. Section 9.5.4 of the Cascade County Zoning Regulations requires the concurring vote of three members of the Zoning Board of Adjustment in order to approve a variance request.

## Analysis

The applicant is requesting a variance to allow a side yard setback of 3 feet.

### **(1) The variance is not contrary to the public interest.**

***The Applicant responded:*** *Garage slab and carport slab have deteriorated to the point that they've compromised the structure and rendered it hazardous and unusable. Replacing the structure will not negatively affect neighbor's structures which do conform to zoning setback requirements.*

After visiting the site, staff agrees that the current condition of the structure is both hazardous and unusable and warrants replacement. In its current condition, the structure poses a greater hazard to the neighboring properties than if it were to be replaced, and therefore is not contrary to public interest.

### **(2) A literal enforcement would result in an unnecessary hardship, owing to conditions unique to the property.**

***The Applicant Responded:*** *Setback cannot conform to current zoning regulations because 6' setback from property line is not available. Relocating garage in back yard is not possible because of location of septic tank and drainfield, cistern, and well pumphouse.*

The current garage, carport, and back yard access door fit squarely between the fence line and the house. Staff feels that in order to retain the existing square footage of the structure for a two-car garage, in line with other residences in the neighborhood, a variance is required to maintain the integrity of the property.

### **(3) The spirit of this Section would be observed and substantial justice done by granting the variance.**

***The Applicant Responded:*** *We'd like to rebuild the garage not only so that it's usable but so that it's in line with neighboring properties 2-car garages and maintains current property improvements. Strictly adhering to current regulations would not allow us to do those things.*

Staff feels that the replacement of an existing non-conforming use is a merited use of the variance process. A hazardous structure will be replaced by a new structure and the property's structures and uses will effectively remain unchanged

**Motions:**

The following motions are provided for the Board's consideration:

1. the variance to allow for a side yard setback of three (3) feet for a replacement garage be **denied**,  
or
2. the variance to allow for a side yard setback of three (3) feet for a replacement garage be **approved** subject to the following condition:
  - a. The applicant will ensure compliance with all County, State or Federal permits prior to commencing with construction on the subject property.

Attachments:      Variance Application  
                            Zoning Map  
                            Letter from Mark Peltier  
                            Site Photos with Monuments